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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/041,040	12/28/2001	Gary Solomon	42390.P13767	1949

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EXAMINER

ABRAHAM, ESAW T

ART UNIT	PAPER NUMBER
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2133

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/041,040

Applicant(s)

SOLOMON ET AL.

Examiner

Esaw T Abraham

Art Unit

2133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**Response to the applicant's amendments**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/14/05 has been entered.

**Response to the applicant's argument**

Applicant's argument with respect to original claims 1-17 and new added claims 18-24 filled in 02/14/05 have been fully considered but they are not persuasive. The applicant argues that the prior art Doiron does not teach a data path input to receive a packet from a transmitting device for a request transaction that does not expect a completion. However, Doiron in figure 1 teaches data packets transmitted from the transmission unit (sender) (12) to the receiving unit (receiver) (14) through a data path. Doiron further teaches ARQ protocol employed between the sender and receiver so that when data is received incorrectly (a message with an error) and cannot be correctly reconstructed the receiver transmits a negative acknowledgment (NAK) over the network (see col. 5, lines 16-19). Therefore, the applicants' argument although acknowledged, has not been found to be convincing. Further, in light of the above, the inclusion of the phrase "does not expect a completion" in the claims does not change the concept of the claimed invention such that it is allowable over the prior art of record. This is so because if the message is designed to output an incomplete or an error message, the NAK (negative acknowledgment) signals will be commonly sent by the receiver. Therefore, the application of the prior art in relation to the claimed invention is appropriate.

1. Claims 1-17 remains pending and new claims 18-24 are added for examination.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims **1-24** are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Doiron (U.S. PN: 5,968,197).

As per claims **1, 7, 13 and 18**, Doiron in figure 1 teaches or discloses a data communications network which includes a sending unit (12) for sending packets of data over a network bus (16) to a receiving unit (14) whereby both units include transceivers (24) and (30) for communicating packet information over the network bus 16. Doiron further teach an automatic repeat request (ARQ) protocol is employed between sender and receiver so that when a data unit is received correctly by the receiving unit, the receiving unit transmits an acknowledgment (ACK) back to the sending unit and if the data unit is received incorrectly (unsuccessfully) and cannot be correctly reconstructed, the receiving unit transmits a negative acknowledgment (NAK) to the sending unit (see col. 4, last paragraph and figure 2 steps 40-44). Although, Doiron does not explicitly teach a transmitting device that does not expect a completion acknowledgment for a request transaction, the practice is inherent for the system of Doiron because by virtue of the fact any transmitting device can transmit successful or

Art Unit: 2133

unsuccessful messages depending on the system's configuration and if the transmitting device transmits unsuccessful messages the receiving device must retransmit a NAK message and if the transmitting device transmits successful messages the receiving device must retransmit an ACK message.

As per claims **2, 3, 8, 9, 19 and 20**, Doiron teaches all the subject matter claimed in claim 1, 7, 13 and 18 including Doiron in figure 3A teaches a data format where data is sent in units and the message may begin with a header portion of bits allocated to any number of functions including start of a data message, sender and/or receiver address information, length of the message, etc (see col. 5, last paragraph).

As per claims **4, 10, 14, 17 and 21**, Doiron teaches all the subject matter claimed in claim 1, 7, and 13 including Doiron teach that the receiving unit transmits an acknowledgment (ACK) back to the sending unit and if the data unit is received incorrectly (unsuccessfully) and cannot be correctly reconstructed, the receiving unit transmits a negative acknowledgment (NAK) to the sending unit (see col. 4, last paragraph and figure 2 steps 40-44).

As per claims **5, 11, 15 and 22**, Doiron teaches all the subject matter claimed in claim 1, 7, 13 and 18 including Doiron teach that the receiving unit transmits an acknowledgment (ACK) back to the sending unit and if the data unit is received incorrectly or received undefined error messages and cannot be correctly reconstructed, the receiving unit transmits a negative acknowledgment (NAK) to the sending unit (see col. 4, last paragraph and figure 2 steps 40-44).

As per claims **6, 12, 16, 23 and 24**, Doiron teaches all the subject matter claimed in claim 1, 7, 13 and 18 including Doiron teach that the receiving unit transmits an acknowledgment (ACK) back to the sending unit and if the data unit is received incorrectly or received malformed

Art Unit: 2133

error messages and cannot be correctly reconstructed, the receiving unit transmits a negative acknowledgment (NAK) to the sending unit (see col. 4, last paragraph and figure 2 steps 40-44).

### *Conclusion*

3. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Esaw Abraham whose telephone number is (571) 272-3812. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are successful, the examiner's supervisor, Albert DeCady can be reached on (571) 272-3819. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

A handwritten signature in black ink that reads "Esaw Abraham". The signature is written in a cursive style with a large, stylized 'A'.

Esaw Abraham

Art unit: 2133